

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

RETHINK35, et al.,

Plaintiffs,

v.

TEXAS DEPARTMENT OF
TRANSPORTATION,

Defendant.

§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. 1:24-CV-00092-DII

**NOTICE OF LODGING THE THIRD SUPPLEMENT
TO THE ADMINISTRATIVE RECORD**

Defendant hereby lodges with the Court the Third Supplement to the Administrative Record for the Texas Department of Transportation's (TxDOT) decision regarding the I-35 Capital Express Central Project from US 290 East to State Highway 71/Ben White Boulevard ("CapEx Central" or "Project"). The Third Supplement to the Administrative Record for the Project consists of 852¹ pages (Bates numbered TxDOT-AR-057032 through TxDOT-AR-057884) contained on one flash drive. The Declaration of Doug Booher ("Declaration") certifying the Third Supplement to the Administrative Record is attached to this notice. An index of the Third Supplement to the Administrative Record is attached to the Declaration as Exhibit 1.

¹ The Third Supplement's 852 pages is in addition to TxDOT's originally filed 52,462-page Administrative Record filed on June 11, 2024, Dkt. 28, TxDOT's 399-page supplement to the record filed on September 4, 2024, Dkt. 38, and TxDOT's 4,169-page supplement to the record filed on November 22, 2024, Dkt. 52. With the Third Supplement, TxDOT's administrative record comprises 57,882 pages.

TxDOT filed its Administrative Record on June 11, 2024. Dkt. 28. Plaintiffs requested additional documents on June 28, 2024, and on September 3, 2024². On September 4, 2024, in response to the June 28, 2024 request, TxDOT voluntarily filed its Supplemental Administrative Record, which included the March 2023 TxDOT Environmental Guide: Volume 2 Activity Instructions, along with a list identifying and specifying the locations of nearly 10,000 pages of comment letters and emails and related attachments already included in TxDOT's administrative record. Dkt. 38. On October 10, 2024, Plaintiffs filed their Motion to Complete and Supplement the Administrative Record, and, in the Alternative, Request for Judicial Notice. Dkt. 43. The 4,169-page Second Supplement to the Administrative record responded to Plaintiffs' motion seeking completion of the Administrative Record, which includes documents sought in plaintiffs' September 3, 2024 request. On December 20, 2024, this Court ordered TxDOT to supplement the administrative record with eleven documents listed in the order. Dkt. 56. The Third Supplement to the Administrative Record contains the materials directed to be added to the administrative record by the Court's December 20, 2024 order.

On January 13, 2025, the Third Supplement to the Administrative Record for the Project contained on a flash drive was served on counsel for Plaintiffs, Save Our Springs Alliance, ATTN: Robert J. Levinski, 4701 Westgate Blvd., Ste. D-401, Austin, Texas 78745, phone: (512) 477-2320, ext. 105, and on Rachel S. Doughty, Esq.,

² TxDOT sent via Federal Express overnight delivery the flash drives containing the voluntary supplement on September 3, 2024 for delivery on September 4, 2024. Those drives had already been prepared when Plaintiffs' second request for supplementation was received via e-mail, thus, the second request for supplementation was not part of the voluntary supplement filed on September 4, 2024.

Greenfire Law, PC, 2748 Adeline Street, Suite A, Berkeley, CA 94703, phone: (510) 900-9502, ext. 706. Two courtesy copies of the Third Supplement to the Administrative Record on flash drives have also been delivered to the United States District Court for the Western District of Texas, U.S. District Clerk's Office, ATTN: Alicia Davis, Divisional Office Manager, 501 West Fifth Street, Suite 1100, Austin, Texas 78701, phone: (512) 916-5896, one for use by the Clerk and one for delivery to the assigned Judge's chambers.

Dated this 13th day of January 2025.

Respectfully submitted,

KEN PAXTON
Attorney General of Texas

BRENT WEBSTER
First Assistant Attorney General

RALPH MOLINA
Deputy First Assistant Attorney General

JAMES LLOYD
Deputy Attorney General for Civil Litigation

NANETTE M. DINUNZIO
Chief, Transportation Division

/s/ Lisa McClain Mitchell

LISA MCCLAIN MITCHELL

Attorney in Charge

Texas Bar No. 90001724

Email: lisa.mitchell@oag.texas.gov

MATT GAMBOA-LUTZ

Admitted Pro Hac Vice

Texas Bar No. 24136835

Email: matt.gamboa-lutz@oag.texas.gov

AIDAN READ

Admitted Pro Hac Vice

Texas Bar No. 24138747

Email: aidan.read@oag.texas.gov

Assistant Attorneys General

Transportation Division

P.O. Box 12548

Austin, Texas 78711-2548

Telephone: (512) 936-1431

Facsimile: (512) 936-0888

RYAN P. BATES

Texas Bar No. 24055152

Bates PLLC

919 Congress Avenue, Suite 1305

Austin, Texas 78701

Telephone: (512) 694-5268

Email: rbates@batespllc.com

Attorneys for Defendant,

Texas Department of Transportation

CERTIFICATE OF SERVICE

I hereby certify that on January 13, 2025, I electronically filed the foregoing Notice of Lodging the Administrative Record with the Clerk of the Court using the CM/ECF system, which will send notification to registered users.

Two flash drives containing the Administrative Record of the Texas Department of Transportation were delivered January 13, 2025, via overnight delivery to:

United States District Court for the ***Via Fed Ex: 7713 1646 7592***
Western District of Texas
U.S. District Clerk's Office
ATTN: Alicia Davis, Divisional
Office Manager
501 West Fifth Street, Suite 1100
Austin, Texas 78701
Phone: (512) 916-5896

In addition, a flash drive containing the Administrative Record of the Texas Department of Transportation was delivered January 13, 2025, via overnight delivery to:

Save Our Springs Alliance ***Via Fed Ex: 7713 1751 4429***
ATTN: Robert J. Levinski
4701 West Gate Blvd., D-401
Austin, TX 78745
Phone: 512-477-2320, ext. 105

Rachel S. Doughty, Esq. ***Via Fed Ex: 7713 1781 9278***
Greenfire Law, PC
2748 Adeline Street, Suite A
Berkeley, CA 94703
Phone: (510) 900-9502, ext. 706

Attorneys for ReThink 35, et al.

/s/ Lisa McClain Mitchell
LISA MCCLAIN MITCHELL
Assistant Attorney General